

TITLE ELEVEN.

Crimes and Offences, Proceedings in Criminal Cases. Punishments and Incidental Provisions.

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CHAPTER 117.

OFFENCES AGAINST THE SOVEREIGNTY OF THE STATE.

- SEC. 1. Treason, its definition, proof and punishment.
2. Misprision of treason, its definition, proof and punishment.
3. Limitation of prosecutions therefor to three years.
4. Usurpation of jurisdiction by a foreign power. Overt acts.
5. Removal of, injury to, or refusal to deliver up the great seal, how punished.
6. Use of the great seal except at the office of secretary of state, punished.
7. Removal, secretion, mutilation of, or refusal to return public books and papers, forbidden and punished.
8. Retiring public officers shall deliver public money or other property to successors. Punishment for refusal.
9. Person, falsely assuming to act as a state officer, how to be punished.

Treason, defined; how to be proved. SEC. 1. Treason consists in levying war against the State, adhering to its enemies, and giving them aid and comfort. No person can be con-

victed of it without the testimony of two witnesses to the same overt act, or confession in open court. Its punishment is imprisonment for life. CHAP. 117.
R.S., c. 117, § 1.
1883, c. 247, § 2.

SEC. 2. Misprision of treason consists in a knowledge that treason has been, or is to be committed, and in the concealment of it, or in omission to give information thereof to the governor, a judge of a court of record, or a justice of the peace. No person can be convicted of it without the testimony of two witnesses, but one of them may testify to one, and another to a different overt act of the same species of treason; or by confession in open court. Its punishment is imprisonment not exceeding five years, or fine not exceeding one thousand dollars. Misprision of
treason, its
definition,
and punish-
ment.
R.S., c. 117, § 2.

SEC. 3. No person can be convicted of treason or misprision of treason, unless the indictment therefor is found within three years after the commission thereof. Prosecution
to be within
three years.
R.S., c. 117, § 3.

SEC. 4. If a person, claiming authority from any foreign government or magistrate, enters upon any lands, cuts any timber, serves any process, exercises any jurisdiction, authority, or ownership, claims any right, or threatens to do any of said acts within the limits of this state, as described by the treaties of seventeen hundred and eighty-three and eighteen hundred and forty-two, between the United States and Great Britain, he and every person aiding and encouraging the same shall be punished by imprisonment and fine, at the discretion of the court. Usurpation
of jurisdic-
tion by a
foreign
power.
R.S., c. 117, § 4.

—overt acts
within the
state, how to
be punished.

SEC. 5. Whoever knowingly and wilfully removes the seal of the State of Maine from the office or custody of the secretary of state at Augusta, or knowingly and wilfully secretes, defaces, injures, or destroys it, or wilfully aids or assists in so doing, or, having the same in his possession, or under his control, wilfully neglects or refuses to deliver it to the secretary of state upon demand therefor, shall be punished by imprisonment for not less than one nor more than five years, and by fine not exceeding five thousand dollars. State seal,
removal of,
injury to,
and neglect
or refusal to
deliver up,
prohibited.
1880, c. 168, § 1.

—punish-
ment.

SEC. 6. Whoever knowingly and wilfully uses the seal of the State of Maine, or takes any impression therefrom, for any purpose, in any other place than the office of the secretary of state at Augusta, or knowingly and wilfully issues, or receives and acts under any commission, record, document, parchment, instrument or paper, bearing the impression of said seal, unless the same has been sealed in said office of said secretary of state at Augusta, shall be punished by imprisonment for not more than three years and by fine not exceeding three thousand dollars. Use of great
seal in any
place but the
office of
secretary of
state,
prohibited.
1880, c. 168, § 2.

—punish-
ment.

SEC. 7. Whoever knowingly and wilfully removes from the state house at Augusta, or from the custody of the secretary of state, or of the governor and council, or other officer or person in whose lawful custody the same are deposited and kept in said state house, any book of accounts, voucher, record, return, returned copies of lists of votes given for any public officer, certified copy of any record, or other document or instrument, belonging to, or kept in any of the offices in said state house, except the books and documents kept and deposited in the state library, or knowingly and wilfully secretes, alters, mutilates, defaces, or destroys any such book of accounts, voucher, record, return, returned copies of lists of votes given for any public officer, certified copy of any record, Books and
papers,
removal of
from state
offices,
secretion,
mutilation,
or refusal
to return,
prohibited.
1880, c. 168, § 3.

CHAP. 117. or other document or instrument, or knowingly and wilfully aids or assists in so doing, or having any such book of accounts, voucher, record, return, returned copies of lists of votes given for any public officer, certified copy of any record, or other such document or instrument in his possession, or under his control, wilfully neglects or refuses to return the same to said state house, or to deliver the same to the person in lawful charge of the office or room in said state house, where the same were kept or deposited, shall be punished by imprisonment, for not less than one nor more than three years and by fine not exceeding five thousand dollars.

—punish-
ment.

Persons who have held public office, shall on written demand, deliver moneys and other public property to their successors. 1880, c. 173.

SEC. 8. When any person, having held any public office in this state, and having in his possession or under his control, any moneys, books of account, records, accounts, vouchers, documents or other property, or effects pertaining or belonging to said office, or to the State, or to any county or municipality in the state, and whose term of office has expired, and whose successor in said office has been elected or appointed and qualified, after a written demand for the same, wilfully refuses to deliver such moneys, books of account, records, accounts, vouchers, documents or other property or effects aforesaid to such successor in said office, he shall be punished by imprisonment not exceeding five years, and by fine not exceeding five thousand dollars.

—punish-
ment for
refusal.

Person, falsely assuming to act as a state officer, how to be punished. 1880, c. 170.

SEC. 9. Whoever knowingly and falsely assumes to be a state officer of the State of Maine, and to act as such, or knowingly and falsely assumes to discharge any of the duties of such officer, or knowingly and wilfully invites or receives any communication, document, record or letter properly belonging to such state officer, or relating to the office or official business of said officer, or, in any way, knowingly and wilfully obstructs or delays such officer in the discharge of any of his official duties, shall be punished by imprisonment for not less than one, nor more than five years, and by fine not exceeding five thousand dollars.

—punish-
ment.

CHAPTER 118.

OFFENCES AGAINST THE LIVES AND PERSONS OF INDIVIDUALS.

- SEC. 1. Murder, defined.
 2. Murder of the first degree, defined and punished.
 3. Murder of the second degree, defined and punished.
 4. Degree of murder, how to be ascertained.
 5. Manslaughter, defined and punished.
 6. Wilful disturbance or obstruction of a railroad, by which human life is destroyed, is murder of the first degree; if life is endangered, but not destroyed, or property is injured, how to be punished.
 7. Misconduct, or gross neglect respecting steam in steamboats, occasioning loss of life or danger thereof.
 8. Murder of the first degree by duelling, defined and punished.
 9. Murder of the first degree, by a second to such duel.

SEC. 10. Conviction or acquittal in another state is a bar to an indictment under sections eight, nine, or thirteen. CHAP. 118.

11. Fighting, challenging, or aiding a duel, how punished.
12. Accepting a challenge, or aiding a duel.
13. Leaving the state to elude the two preceding sections, and doing such acts out of the state.
14. Posting for not fighting a duel, or for not sending or accepting a challenge.
15. Mayhem, defined and punished.
16. Robbery, defined and punished.
17. Rape, defined and punished.
18. Abduction, defined and punished.
19. Forceful confinement, kidnapping, or selling as a slave, where to be indicted.
20. Abandonment of children.
21. Apprentices and minors carried out of the state by shipmasters.
22. Enlistment of minors into the army of the United States.
23. Extortion or compulsion, by threats.
24. Assault, with intent to commit a rape.
25. Assault, with intent to murder, kill, maim, rob, steal, or to commit arson or burglary.
26. Assault, with intent to commit other felonies.
27. Attempt to murder or kill, without assault.
28. Assault, and assault and battery.

SEC. 1. Murder is the unlawful killing of a human being with malice aforethought, either express or implied. (a) Murder.
R.S., c. 118, § 1.

SEC. 2. When murder is committed with express malice aforethought, or in perpetrating or attempting to perpetrate a crime punishable by death, or imprisonment for life, or for an unlimited term of years, it shall be deemed murder of the first degree and punished with death. (b) Murder of
first degree,
defined and
punished.
R.S., c. 118, § 2.
See 1883,
c. 205, § 1.

SEC. 3. When murder is committed otherwise than is set forth in the preceding section, it shall be deemed murder of the second degree, and punished by imprisonment for life. (c) Murder of
the second
degree.
R.S., c. 118, § 3.

SEC. 4. The jury, finding a person guilty of murder, shall find whether he is guilty of murder in the first or second degree. When a person is found guilty of murder by confession in open court, the court, from testimony, shall determine the degree of murder, and sentence accordingly. (d) Degree of
murder,
how to be
ascertained.
R.S., c. 118, § 4.

SEC. 5. Whoever unlawfully kills a human being in the heat of passion, on sudden provocation, without express or implied malice aforethought, or commits manslaughter as defined by the common law, shall be punished by imprisonment for not more than ten years, or by fine not exceeding one thousand dollars. Manslaughter,
defined and
punished.
R.S., c. 118, § 5.
32 Me., 374.
33 Me., 55.
39 Me., 67.

SEC. 6. Whoever wilfully and maliciously displaces a switch or rail, disturbs, injures or destroys any part of an engine, car, signal, track or bridge of any railroad, or places an obstruction thereon with intent that any person or property passing on the same should be thereby injured, and human life is thereby destroyed, is guilty of murder of the first degree and shall be punished accordingly. If human life is thereby endangered and not destroyed, or if property is injured, he shall be Penalty, for
destroying
human life by
obstructing
railroads.
1873, c. 108.
See § 2.

—endanger-
ing life, or
injuring
property.

(a) 54 Me., 415; 57 Me., 582; 58 Me., 575, 578, 582, 589.

(b) 37 Me., 469; 39 Me., 66, 87; 51 Me., 222; 54 Me., 415; 58 Me., 575, 578, 582, 589.

(c) 39 Me., 87; 58 Me., 578, 582, 589.

(d) 58 Me., 567, 568, 570, 576, 579, 582, 584, 589.

CHAP. 118. punished by imprisonment and hard labor during life or for not less than ten years.
1872, c. 64.

Misconduct
or gross
neglect,
respecting
steam in
steamboats,
and boilers.
R.S., c. 118, § 7.

SEC. 7. Whoever, having charge of a steamboat used for conveyance of passengers, or of the boiler or other apparatus for generating steam therein, through ignorance, gross neglect, or for the purpose of racing, creates or allows to be generated such a quantity of steam as to break such boiler, apparatus, or machinery connected therewith, and thereby human life is destroyed, shall be punished by imprisonment for not more than four, nor less than two years; and if human life is endangered and not destroyed, by imprisonment for less than one year, and by fine not exceeding two hundred and fifty dollars.

Murder of
the first
degree by
duelling,
defined and
punished.
R.S., c. 118, § 8.
See § 2.

SEC. 8. Any person residing in the state, who within it engages to fight a duel and fights such duel without the state, and thereby inflicts a mortal wound on any person, of which he dies in the state, is guilty of murder of the first degree, and shall be punished accordingly; and he may be indicted and tried in the county where the death happened.

Murder, by
a second to
such duel.
R.S., c. 118, § 9.
See §§ 2, 8.

SEC. 9. A person who, by an engagement made in the state, is second to either party in such duel and is present when a mortal wound is inflicted, of which the person dies within the state, is an accessory before the fact, to murder of the first degree, and may be indicted, tried, and punished, the same as the principal may be.

Trial in
another state,
bars indictment here.
R. S., c. 118,
§ 10.

SEC. 10. A person indicted under sections eight, nine or thirteen, may plead a former conviction or acquittal of the same offence, in another state, which, being admitted or established, entitles him to an acquittal in this state.

Duelling how
punished.
R. S., c. 118,
§ 11.

SEC. 11. Whoever fights a duel with deadly weapons, or is present thereat as aid, second, surgeon, or as advising, encouraging, or promoting it, although no homicide ensues; or sends, or delivers a verbal or written message intended to be a challenge, although no duel ensues, shall be punished by imprisonment for not more than twenty years, or by fine not exceeding one thousand dollars; and be incapable of holding any office or place of honor, trust, or profit, for twenty years after conviction.

Accepting a
challenge, or
aiding a
duel, how
punished.
R. S., c. 118,
§ 12.

SEC. 12. Whoever accepts such a challenge, or engages to act as second, or surgeon, to one accepting, or knowingly delivers such acceptance, or advises, encourages, or promotes it, although no duel ensues, shall be punished by imprisonment for less than one year, and by fine not exceeding one thousand dollars; and be incapable, as in the preceding section, for five years after conviction.

Leaving state
to elude two
preceding
sections, and
then doing
such acts,
punished.
R. S., c. 118,
§ 13.

SEC. 13. If a resident of the state leaves it to elude either of the two preceding sections, with intent to do acts out of the state which would be a violation of either of their provisions if done within the state, and does such acts, he shall be subject to the same punishment as if the offence had been committed in the state; and he may be indicted and tried in the county where he resides.

Posting for
not fighting
a duel, &c.

SEC. 14. Whoever posts another, or uses, in writing or in print, reproachful or contemptuous language concerning him for not fighting a

duel, or for not sending or accepting a challenge, shall be punished by imprisonment for less than one year, and by fine not exceeding one hundred dollars. CHAP. 118.
R. S., c. 118,
§ 14.

SEC. 15. Whoever, with malicious intent to maim or disfigure, cuts or maims the tongue, puts out or destroys an eye, cuts or tears off an ear, cuts, slits, or mutilates the nose or lip, or cuts off or disables a limb or other member of another person, shall be punished by imprisonment for not less than one, nor more than twenty years. Mayhem,
defined and
punished.
R. S., c. 118
§ 15.

SEC. 16. Whoever, by force and violence, or by putting in fear, feloniously steals and takes from the person of another, property that is the subject of larceny, is guilty of robbery, and if, at the time, he is armed with a dangerous weapon, with intent, if resisted, to kill or maim such person; or if, being so armed, he wounds or strikes him; or if he has a confederate present, so armed, to aid or abet him, he shall be punished by imprisonment for life; otherwise for any term of years or for life. Robbery,
defined and
punished.
R. S., c. 118,
§ 16.

SEC. 17. Whoever ravishes, and carnally knows, any female of ten or more years of age by force and against her will, or unlawfully and carnally knows and abuses a female child under ten years of age, shall be punished by imprisonment for life, or for any term of years. (a) Rape, defined
and
punished.
R. S., c. 118,
§ 17.
1872, c. 12.

SEC. 18. Whoever takes a woman unlawfully and against her will, and by force, menace, or duress, compels her to marry him, or any other person, or to be defiled, shall be punished by imprisonment for life or for any term of years. And whoever so takes a woman, with intent by such means to compel her to do so, shall be punished by imprisonment for not less than one, nor more than ten years. Abduction,
defined and
punished.
R. S., c. 118,
§ 18.

SEC. 19. Whoever unlawfully confines or imprisons another, or forcibly transports or carries him out of the state, or from place to place within it, or so seizes, conveys, inveigles, or kidnaps any person, with intent to cause him to be so dealt with; or sells as a slave, or transfers, for any term of time, the service of any person of color, who has been so seized, inveigled, or kidnapped, shall be punished by imprisonment for not more than five years, or by a fine not exceeding one thousand dollars. Indictments for these offences may be found and tried in the county where such person was carried or brought, or in the county where the offence was committed; and on trial the consent of such person shall not be a defence, unless it appears that it was not obtained by fraud, threats, or duress. Forcible
confinement,
kidnapping,
or selling as
a slave.
R. S., c. 118,
§ 19.

—where to be
indicted and
tried.

SEC. 20. If the father or mother of a child under the age of six years, or a person to whom such child is confided, exposes it in any place with intent wholly to abandon it, he shall be punished by imprisonment for not more than five years, or by fine not exceeding five hundred dollars. Abandon-
ment of
children.
R. S., c. 118,
§ 20.

SEC. 21. If the master of a vessel carries out of the state an apprentice, indentured servant, or person under twenty-one years of age, without the consent of his parent, master, or guardian, he shall be punished by fine not exceeding two hundred dollars; and be liable in an action on the case, to such parent, master, or guardian, for all damages thereby sustained. Shipmasters,
carrying
apprentices
and minors
out of state.
R. S., c. 118,
§ 21.
11 Me., 106.

SEC. 22. Whoever in this state enlists or causes to be enlisted into Enlistment

CHAP. 118. the army of the United States, a minor, knowing him to be such, without the written consent of his parent, master, or guardian, and he is removed out of the state within six months after his enlistment; or persuades him to leave the state with intent thus to enlist him, shall be punished by imprisonment for less than one year, or by fine not exceeding five hundred dollars.

Extortion or
compulsion,
by threats.
R. S., c. 118,
§ 23.
24 Me., 72.
68 Me., 474.

SEC. 23. Whoever, verbally, or by written or printed communication, maliciously threatens to accuse another of a crime or offence, or to injure his person or property, with intent thereby to extort money or procure any advantage from him, or to compel him to do any act against his will, shall be punished by imprisonment not exceeding two years, or by fine not exceeding five hundred dollars.

Assault on a
female, with
intent to
commit rape.
R. S., c. 118,
§ 24.

SEC. 24. Whoever assaults a female of ten years of age or more, with intent to commit a rape, shall be punished by imprisonment not exceeding ten years, or by fine not exceeding five hundred dollars. If such assault is made on a female under ten years, such imprisonment shall not be for less than one year nor more than twenty years.

Assault with
intent to mur-
der, maim,
rob, &c.
R. S., c. 118,
§ 25.
37 Me., 469.
39 Me., 66.

SEC. 25. Whoever assaults another with intent to murder, kill, maim, rob, steal, or to commit arson or burglary, if armed with a dangerous weapon, shall be punished by imprisonment for not less than one, nor more than twenty years; when not so armed, by imprisonment for not more than ten years, or by fine not exceeding one thousand dollars.

To commit
other felony.
R. S., c. 118,
§ 26.
1872, c. 82.

SEC. 26. Whoever commits an assault not before described, with intent to commit a felony, shall be punished by imprisonment for not more than five years, or by fine not exceeding one thousand dollars. (a)

Attempt to
murder, with-
out assault.
R. S., c. 118,
§ 27.

SEC. 27. Whoever, without an assault, unlawfully attempts by any means or in any form to murder or kill a human being, shall be punished by imprisonment for not less than one, nor more than twenty years.

Assault, and
assault and
battery.
R. S., c. 118,
§ 28.
1872, c. 82.
59 Me., 575.
69 Me., 182.
73 Me., 281.

SEC. 28. Whoever unlawfully attempts to strike, hit, touch, or do any violence to another however small, in a wanton, wilful, angry, or insulting manner, having an intention and existing ability to do some violence to such person, is guilty of an assault; and if such attempt is carried into effect, he is guilty of an assault and battery, and for either offence, he shall be punished by imprisonment not exceeding five years, or by fine not exceeding one thousand dollars, when no other punishment is prescribed.

CHAPTER 119.

OFFENCES AGAINST HABITATIONS AND OTHER BUILDINGS.

- SEC. 1. Arson of a dwelling-house, in the night or in the day. Punishment.
2. Arson of a dwelling, owned wholly or partly by himself. Punishment.
3. Burning of public and private buildings, in the night and in the day.
4. Burning of other buildings, vessels, locks, dams, and flumes.

(a) 69 Me., 182.

- SEC. 5. Burning of produce, trees, and other property. Punishment.
 6. Wife is liable, although the property burned is her husband's.
 7. Burglary, defined and punished; burglars' tools, how dealt with.
 8. Breaking and entering a dwelling-house by day; entering by night, and breaking and entering other buildings, cars or vessels. Punishment.
 9. Dwelling-house, defined.

SEC. 1. Whoever wilfully and maliciously sets fire to the dwelling-house of another, or to any building adjoining thereto, or to any building owned by himself or another, with intent to burn such dwelling-house, and it is thereby burned, in the night time, shall be punished by imprisonment at hard labor for life. If he proves, and the jury find, that there was no person lawfully in such dwelling-house at the time, or if the offence was committed in the day time, he shall be punished by imprisonment for life, or for any term of years.

Arson of a dwelling-house.
 1883, c. 247, § 1.
 55 Me., 367.
 62 Me., 285.
 63 Me., 135.
 66 Me., 307.
 71 Me., 355.

SEC. 2. Whoever wilfully and maliciously sets fire to a dwelling-house owned wholly or partly by himself, or to any other building owned by himself or another, with intent to burn such dwelling-house, another person being lawfully therein, and it is thereby burned, shall be punished by imprisonment for life.

Arson of a dwelling-house, owned by himself.
 R.S., c. 119, § 2.

SEC. 3. Whoever wilfully and maliciously sets fire to any meeting-house, court house, jail, town house, college, academy, or other building erected for public use, or to any store, shop, office, barn, or stable of another within the curtilage of a dwelling-house, so that such dwelling-house is thereby endangered, and such public or other building is thereby burned in the night time, shall be punished by imprisonment for life, or for any term of years; but if such offence was committed in the day time, or without the curtilage of, and without endangering a dwelling-house, by imprisonment for not less than one, nor more than ten years.

Burning of public and private buildings.
 R.S., c. 119, § 3.
 12 Me., 215.
 45 Me., 329.
 58 Me., 243.

SEC. 4. Whoever wilfully and maliciously burns any building of another not mentioned in the preceding section, or any vessel, bridge, lock, dam, or flume, of another, shall be punished by imprisonment for not less than one, nor more than ten years.

Burning of other buildings, vessels, bridges, &c.
 R.S., c. 119, § 4.
 45 Me., 329.

SEC. 5. Whoever wilfully and maliciously burns any corn, grain, hay, vegetables, or other produce, or any soil, trees, underwood, or other property of another, shall be punished by imprisonment for not less than one, nor more than three years.

Burning of produce, trees, &c.
 R.S., c. 119, § 5.

SEC. 6. The preceding sections are applicable to a married woman, committing either of such offences without the consent of her husband, although the property set on fire and burned belonged wholly or in part to him.

Wife is liable, although property burned is her husband's.
 R.S., c. 119, § 6.

SEC. 7. Whoever breaks and enters in the night time, with intent to commit a felony, or, having entered with such intent, breaks, in the night time, a dwelling-house, any person being then lawfully therein, is guilty of burglary; and whether he is, before or after entering, armed with a dangerous weapon, or whether he assaults any person lawfully therein, or has any confederate present aiding or abetting, or not, in either case, he shall be punished by imprisonment for life, or for any term of years; and all burglars' tools or implements prepared or designed for committing

Burglary, defined and punished.
 R.S., c. 119, § 7.

1872, c. 12.
 —burglars' tools, how dealt with.

ment thereon arrested, for an omission to record a default of the principal or surety at the proper term, nor for any defect in the form of the recognizance, if it can be sufficiently understood, from its tenor, at what court the party or witness was to appear, and from the description of the offence charged, that the magistrate was authorized to require and take the same.

CHAP. 133.

Unessential
forms in
recogni-
zances, &c.
R. S., c. 133,
§ 22.
59 Me., 413
60 Me., 107.
71 Me., 204.
73 Me., 555.

CHAPTER 134.

PROCEEDINGS IN COURT IN CRIMINAL CASES.

OATH AND DUTIES OF GRAND JURY.

- SEC. 1. Clerks of courts shall prepare alphabetical lists of grand jurors.
2. Grand jurors' oath.
3. Form of affirmation.
4. Election of foreman.
5. Term of his office.
6. Oath of witnesses before grand jury. List shall be returned to court.
7. Grand jury shall present all offences, may appoint one of their number to take minutes; when dismissed, they may be recalled by the court. What is a sufficient indictment for murder or manslaughter.
8. Disclosures, improper to be made by grand jurors.

BAIL, ARRAIGNMENT AND TRIAL OF CRIMINALS.

- SEC. 9. In what cases, persons in prison, on a capital charge, may be bailed or discharged, if not indicted.
10. When a person, if indicted, may claim trial.
11. Standing mute is equivalent to a plea of not guilty.
12. Jury for capital trials, how to be impanelled. Peremptory and other challenges. Supreme court may prescribe rules.
13. A single justice may try capital cases.
14. Person indicted for felony is entitled to a copy of the indictment, and if for a crime punishable with death or life imprisonment, to a list of jurors and process for witnesses, at the State's expense. Counsel may be assigned in capital cases; but the fee is limited to one hundred and fifty dollars.
15. Prosecuting officer may summon witnesses; no fees need be tendered them; no costs for witnesses not recognized or summoned, in cases where no bill is found, or for defect of roads.
16. Punishment for not attending, when summoned as a witness for the State.
17. Witnesses are not entitled to fees until the second or third day, in continued cases; no extra charges shall be allowed for aid or otherwise, unless on examination of officer on oath, or other proof, found reasonable.
18. Person arraigned, need not be asked how he will be tried; dilatory pleas may be rejected unless verified by oath.
19. Depositions may be taken out of the state, on request of defendant. Accused may be a witness, at his own request, but he is not obliged on cross examination to convict himself of any other crime. His failure to testify is not proof of guilt. A husband or wife is a competent witness.
20. Facts shall be tried and challenges allowed, as in civil cases.
21. Jurors' oaths and affirmations.
22. Respondent's presence is required at his trial for felony.
23. View may be ordered by the court.
24. When the court may postpone a criminal trial, or discharge the jury.

PAYMENT OF PRIVATE CLAIMS FROM FORFEITED RECOGNIZANCES.

- SEC. 25. When private claims may be paid out of forfeited recognizances.

they may be summoned again, on any special occasion, at such time as the court directs. It is sufficient in every indictment for murder, to charge that the defendant did feloniously, wilfully and of his malice aforethought, kill and murder the deceased; and for manslaughter, to charge that the defendant did feloniously kill and slay the deceased, without, in either case, setting forth the manner or means of death. CHAP. 134.
for murder
or man-
slaughter.
32 Me., 373.
54 Me., 413.
65 Me., 266.

SEC. 8. No grand juror or officer of the court shall disclose that an indictment for felony has been found against any person not in custody or under recognizance, until he is arrested, except by issuing process for his arrest; nor shall any grand juror state how any member of the jury voted, or what opinion he expressed, on any question before them; and the court, in charging such jury, shall impress on their minds this section. Disclosures
improper to
be made by
grand jurors.
R.S., c. 134, § 8.

BAIL, ARRAIGNMENT AND TRIAL OF PRISONERS.

SEC. 9. Any person in prison, charged with a crime punishable with death, may be bailed or discharged, if he is not indicted at the second term of the court in the county where the crime is alleged to have been committed, when two or more criminal terms are held therein during each year; but when there is only one term a year, and the accused has been in prison for six months before the first term and is not then indicted, he shall be bailed or discharged. In capital
cases, per-
sons in prison
may be bailed
or dis-
charged, if
not indicted.
R.S., c. 134, § 9.

SEC. 10. Any person in prison under indictment shall be tried or bailed at the next term after the finding thereof, if he demands it, unless the court is satisfied that some of the witnesses on the part of the State have been enticed away, or detained from court by some cause beyond their control; and all persons under indictment for felony, if they have been arrested thereon, shall be tried or bailed at the second term after the finding thereof. Any person indicted, although he has not been arrested, is entitled to a speedy trial, if he demands it in person in open court. When person
indicted may
claim trial.
R. S., c. 134,
§ 10.

SEC. 11. When a person indicted stands mute, the court shall order the plea of not guilty to be entered, with the same effect as if he had pleaded not guilty. Standing
mute.
R. S., c. 134,
§ 11.

SEC. 12. When a person indicted for an offence punishable with death is put upon his trial, the clerk, under the direction of the court, shall place the names of all the traverse jurors summoned and in attendance, in a box, upon separate tickets, and the names, after being mixed, shall be drawn from the box by the clerk, one at a time, for the purpose of constituting a jury of trial. All peremptory challenges, except as herein provided, and all other challenges and objections to the juror drawn, shall be made and determined and the juror sworn or set aside before another name is drawn, and so on until the panel is completed. The person indicted shall not challenge, peremptorily, more than twenty, nor the State more than five of the jurors while the panel is being formed; but such person may, before the trial commences, challenge, peremptorily, two of the jurors from the panel. The supreme judicial court may, by general rules, prescribe the mode of exercising the right of challenge from the panel, in all criminal cases. Jury for
capital trials,
how to be
impanelled.
1883, c. 205, § 6.
67 Me., 337.
74 Me., 507.
—challenges.
—rules by the
supreme
court.

SEC. 13. One justice of the supreme judicial court may hold a term One justice

CHAP. 134.

may try
capital cases.
1883, c. 247, § 3.

Persons
indicted for
felony to be
furnished a
copy of
indictment.
1883, c. 205, § 7.

—if, for capi-
tal crime, &c.,
witnesses to
be summoned
at state's
expense.

—counsel
may be
assigned in
capital cases;
pay limited to
\$150.

Prosecuting
officer may
summon wit-
nesses, &c.
R. S., c. 134,
§ 15.

—no tender
of fees to
state
witnesses.

Punishment
of state wit-
ness for not
attending.
R. S., c. 134,
§ 16.
See c. 82, § 101.

Witnesses are
not entitled
to fees until
the second or
third day in
continued
cases, &c.
R. S., c. 134,
§ 17.

Prisoner need
not be asked
how he will
be tried.
R. S., c. 134,
§ 18.
See c. 77, § 4.

Depositions
may be taken
out of the
state.
R. S., c. 134,
§ 19.

thereof in any county, except in the counties of Cumberland and Kennebec, for the trial of capital cases, and exceptions may be taken, as in other cases, to their rulings and decisions.

SEC. 14. The clerk shall, without charge, furnish to every person indicted for a crime punishable by imprisonment in the state prison, a copy of the indictment; if for a crime punishable by death or imprisonment for life, he shall also furnish a list of the jurors returned, and process to obtain witnesses, to be summoned and paid at the expense of the State; if for a crime punishable by imprisonment for a term of years, witnesses shall be summoned and paid at the expense of the State only at the discretion of the court. Competent counsel shall be assigned by the court in capital cases, when it appears that the accused has not sufficient means to employ counsel; and reasonable compensation, not exceeding one hundred and fifty dollars in all at any one trial, shall be allowed by the court, to be paid out of the county treasury.

SEC. 15. The prosecuting officer has the same power as the clerk of the court to issue a summons for witnesses in criminal cases; and no costs shall be taxed for witnesses before the grand jury in a case where no bill is found, nor in complaints against towns for defect of road, unless they recognized so to attend, or were summoned by order of the grand jury or prosecuting officer; nor is it necessary to tender fees to witnesses summoned in behalf of the State.

SEC. 16. Whoever, having been summoned as a witness in behalf of the State before any court or grand jury, without reasonable cause fails to appear at the time and place designated in the summons, if he is not punished therefor as for contempt, shall be punished, on indictment, by imprisonment for less than one year, or by fine not exceeding one hundred dollars.

SEC. 17. No fees in criminal cases continued after the first term shall be allowed to witnesses on the part of the State, until the second day of the term in Hancock, Oxford, Franklin, Piscataquis, and Aroostook; nor until the third day in any other county, unless they were summoned at an earlier day; and in all criminal cases, previous to the determination thereof, the court may allow such costs for justices, officers, aids, jurors, and witnesses, as are provided by law, to be paid from the county treasury; but no court or magistrate shall allow any charge for aid or other expenses of the officer in serving a warrant, except his stated fees for service and travel, unless, on his examination upon oath, or on other evidence, they find such additional charges reasonable.

SEC. 18. When a person is arraigned on an indictment, he need not be asked how he will be tried; and when a plea in abatement, or other dilatory plea to an indictment is offered, the court may refuse to receive it until it is verified by affidavit or other evidence. (a)

SEC. 19. On application of the defendant in a criminal case, the court may grant a commission to take the depositions of material witnesses living out of the state, upon interrogatories in the same manner, with the same effect, and subject to exceptions, as in civil causes;

CHAP. 134. EXCEPTIONS AND BAIL AFTER VERDICT. NEW TRIALS. REVERSAL ON WRIT OF ERROR.

Respondent may give bail in bailable case, pending a question of law. R. S., c. 134, § 26. See c. 99, § 35. —form of recognizance. — after conviction of felony, he can be bailed only by justice trying him, or by some person appointed by him. 41 Me., 167. 42 Me., 385. 59 Me., 305. 70 Me., 334.

SEC. 26. Questions of law may be reserved on a report signed by the presiding justice, and in such case, and where exceptions are allowed, the defendant may, when the offence charged is bailable, recognize with sureties, in such sum as the court orders, with conditions substantially as follows: "The condition of this recognizance is such that, whereas there is now pending in the — court, within and for the county of —, an indictment against the said — — for the offence of —, in the course of the proceedings upon which, questions of law requiring the decision of the justices of the supreme judicial court have arisen; now if said — — shall personally appear before said — court, to be held in and for said county, from term to term, until and including the term of said court next after the certificate of decision shall be received from said justices, and shall abide the decision and order of said court, and not depart without license, then this recognizance shall be void." If he does not so recognize he shall be committed. When a verdict of guilty is rendered against any person for an offence punishable by imprisonment in the state prison, he shall be admitted to bail only by the justice trying him, by some person by him appointed therefor, or by some justice of the supreme judicial court.

Three justices may grant a new trial in capital cases. 1883, c. 205, § 8.

In case of error in the sentence, proceedings. R. S., c. 134, § 27.

SEC. 27. If a motion for new trial in a capital case is denied by the justice before whom the same is heard, the respondent may appeal from said decision to the next law term for such district; and the concurrence of but three justices shall be necessary to grant such motion.

SEC. 28. When a final judgment in any criminal case is reversed by the supreme judicial court, upon a writ of error, on account of error in the sentence, the court may render such judgment therein as should have been rendered, or may remand the case for that purpose to the court before whom the conviction was had.

CHAPTER 135.

SENTENCE, AND ITS EXECUTION IN CRIMINAL CASES, AND THE LIBERATION OF POOR CONVICTS.

WHAT SENTENCE MAY BE AWARDED.

- SEC. 1. No person shall be punished until convicted; what sentence may be passed, when none is provided. When punishment is by imprisonment and fine, or by imprisonment or fine, sentence may be to either or both. When convict shall pay costs.
2. Punishment may be for life, when a convict has before been sentenced to any state prison.
3. No convict shall be sent to the state prison for less than a year. Imprisonment for misdemeanors may be inflicted in jail or house of correction.
4. Crimes punishable in state prison for three years or less, may be punished in work-jails.

SEC. 10. When a convict is sentenced to confinement in the state prison, such clerk shall make out a warrant under seal of the court, directed to the warden of the prison, requiring him to cause such convict, without needless delay, to be removed from the county jail to the state prison; the warden and all sheriffs and jail keepers shall strictly obey its directions; and the clerk, as soon as may be, shall deliver such warrant to the sheriff of the county, and he shall forthwith deliver it to said warden. The sheriff shall provide the convict with comfortable clothing in which to be removed to the state prison.

CHAP. 135.

Removal of convicts to state prison, must be on sentence and clerk's warrant. R.S., c. 135, § 6.

—clothing for convicts.

EXECUTION OF SENTENCE IN CAPITAL CASES.

SEC. 11. At the trial of an indictment for a capital offence, the justice presiding shall, at the expense of the county, employ suitable means to preserve an accurate and full copy of the evidence; and in case of conviction, he shall correct and certify such evidence to be a true copy of all the evidence in the case. And in all cases of sentence of death, the clerk shall forthwith transmit to the governor a true and attested copy of such evidence, and a copy of the whole record in the case.

In capital sentence, copy of evidence and record to be certified by justice and sent to governor by clerk. R.S., c. 135, § 7. See 1883, c. 205, § 5.

SEC. 12. When a person is convicted of a crime punishable with death, and sentenced therefor, the time for the execution of such sentence shall be fixed by the court, which time shall be not less than twelve nor more than fifteen months from the day on which such sentence is passed, and the convict shall at the same time be sentenced to confinement in the state prison until such punishment is inflicted.

Time for execution in capital cases, to be fixed by the court, in the sentence. 1883, c. 205, § 2.

SEC. 13. The governor shall seasonably issue his warrant under the great seal of the State, directed to the sheriff of the county wherein the state prison is situated, or one of his deputies, commanding him to carry such sentence into execution at the time fixed by the court, unless the governor with the advice and consent of council, shall pardon or reprieve the convict, or commute his sentence.

Warrant for execution, when and to whom to be issued. 1883, c. 205, § 3.

SEC. 14. The governor, with the advice and consent of council, may respite, from time to time, the execution of a sentence of death, for stated periods, so long as he may deem it necessary to afford him an opportunity of exercising his right of pardon and of investigating and considering the facts of the case for that purpose.

Governor may respite, with view of exercising the pardoning power. 1883, c. 205, § 11.

SEC. 15. Sentence of death shall, in all cases, be inflicted by hanging the convict by the neck until he is dead, and shall be executed, at the time directed in the warrant, within the walls or inclosed yard of the state prison; and the sheriff of the county, unless prevented by sickness, or other casualty, and two deputies designated by him, shall be present at the place of execution; he shall request the county attorney and twelve citizens, including a surgeon or physician, and permit the convict's counsel, relatives, such minister of the gospel as he may desire, and such officers of the prison, deputies, constables, and military guard as the sheriff sees fit, but no others, to be present.

How and where sentence of death shall be executed. R. S., c. 135, § 10. See 1883, c. 205, § 5.

SEC. 16. When a sheriff inflicts sentence of death as aforesaid, he shall immediately make return of the warrant therefor, under his hand, with his doings thereon, to the office of the secretary of state; and file

Sheriff's return to be filed in secretary's office.

CHAP. 135. an attested copy of the warrant and return in the office of the clerk of the court where the conviction was had; and the clerk shall file the same with the indictment, and subjoin to the record a brief abstract of such return.

R. S., c. 135,
§ 11.
See 1883,
c. 205, § 5.

LIBERATION OF POOR CONVICTS.

Convict, unable to pay fine or costs, how to be liberated after thirty days.
1879, c. 132.
74 Me., 220.
—convict's note and sworn schedule.
—such convict may be placed at labor.

Such notes are a lien on convict's real estate.
R. S., c. 135,
§ 13.

Penalty, for making a false schedule of property.
R. S., c. 135,
§ 14.

SEC. 17. Except when otherwise expressly provided, any convict, sentenced to pay a fine or costs, and committed for default thereof and for no other cause, who is unable to pay the same, may be liberated by the sheriff, after thirty days from his commitment, by giving his note for the amount due, to the treasurer of the same county, accompanied by a written schedule of all his property of every kind, signed and sworn to before the sheriff, jailer or any justice of the peace or trial justice, and the sheriff shall deliver the same to said treasurer, for the use of the county, within thirty days; and all convicts so committed may be placed at labor in the same manner as persons sentenced to imprisonment and labor.

SEC. 18. Such note continues a lien on all the maker's real estate until it is fully paid; and if judgment is rendered on it in favor of the treasurer, the same proceedings may be had on the execution as in other cases of contract.

SEC. 19. If such convict is convicted of knowingly and wilfully making a false schedule, on oath, as to the nature or amount of his property, he shall receive no benefit from his liberation, but may be again imprisoned until the performance of the original sentence.

CHAPTER 136.

COLLECTION AND DISPOSAL OF FINES AND COSTS IN CRIMINAL CASES.

DUTY OF CLERKS IN RELATION THERETO.

- SEC. 1. Fines, forfeitures and criminal costs, shall be paid to the county. Criminal costs and expenses shall be paid by the county. Clerks shall make duplicate copies of such bills of costs, and certificates of fines.
2. Duty of clerks to collect fines and costs, or to issue process therefor.

DUTY OF SHERIFFS AND OTHER OFFICERS.

- SEC. 3. Officers shall pay over to the county treasurer, fines and costs collected.
4. Penalty for their neglect. Duty of treasurer and county attorney.
5. Officers, receiving process for collection of fines, shall produce receipts to the court, or give a good excuse.
6. Sheriff shall deliver certain securities to the county treasurer, quarterly.

DUTY OF TRIAL JUSTICES AND JUDGES OF MUNICIPAL AND POLICE COURTS.

- SEC. 7. Magistrates shall account for, and pay over fines to the treasurer of the county or town. Duty of municipal and police judges, and their recorders and clerks. Penalty for neglect.